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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

10 ESTEBAN LUCIO, }
11 #81601 }
12 Plaintiff, } 3:11-cv-00040-HDM-RAM
13 vs. }
14 MONTE HANSEN, *et al.*, }
15 Defendants. }
16

ORDER

17 A prisoner filed this civil action in the Seventh Judicial District Court of the State of
18 Nevada, and defendants removed on the basis that the complaint alleges a cause of action pursuant to
19 42 U.S.C. § 1983 (docket #1). Plaintiff has filed a motion to amend his complaint to omit any reference
20 to § 1983 and to remand to state court (docket #6).

21 Plaintiff, who is incarcerated at Southern Desert Correctional Center, has sued the Nevada
22 Department of Corrections, its Director Howard Skolnik, and a correctional officer. Plaintiff styles his
23 complaint as a tort action. He alleges that the officer was negligent when he was transporting plaintiff
24 by van and struck a deer, demolishing the vehicle and injuring plaintiff's shoulder. Plaintiff does not
25 allege any federal claims, though he does state that the complaint is brought pursuant to 42 U.S.C. §
26 1983.

1 However, on March 3, 2011, plaintiff filed a motion to amend his complaint to “remove
2 42 U.S.C. § 1983” (docket #6) and to remand the action to state court. Defendants filed a response
3 indicating that they take no position on plaintiff’s motion (docket #7).

4 IT IS THEREFORE ORDERED that the Clerk shall FILE the complaint (docket #1-2).

5 **IT IS FURTHER ORDERED** that plaintiff's motion to amend is **GRANTED** and any
6 claim asserted under 42 U.S.C. § 1983 is dismissed.

7 IT IS FURTHER ORDERED that plaintiff's motion to remand (docket #6) is
8 **GRANTED.**

12 **IT IS FURTHER ORDERED** that the Clerk shall enter judgment accordingly and close
13 this case.

DATED this 6th day of April, 2011.

Howard D. McKibben

UNITED STATES DISTRICT JUDGE